Planning Inspectorate

Appeal Decision

Site visit made on 3 February 2026

by Robert Naylor BSc (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 February 2026

Appeal Ref: APP/Z3825/X/24/3342359
Honeywood House, Horsham Road, Rowhook, Horsham RH12 3QD

- The appeal is made under section 195 of the Town and Country Planning Act 1990 (the 1990 Act) as amended against a refusal to grant a certificate of lawful use or development (LDC).
- The appeal is made by Mr Scott Davis against the decision of Horsham District Council.
- The application ref DC/24/0099, dated 16 January 2024, was refused by notice dated 13 March 2024.
- The application was made under section 192(1)(b) of the 1990 Act (as amended).
- The development for which a certificate of lawful use or development is sought is described as an *application to confirm that repair works to 'Grooms Cottage' (3 The Stables), 2 The Stables and 'Stable Cottage' (1 The Stables) would be permitted development under GPDO Class A involving 'materials used in any exterior work of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse' or not development requiring planning permission i.e. the carrying out for the maintenance, improvement or other alteration of any building of works which (i) affect only the interior of the building, or (ii) do not materially affect the external appearance of the building to reinstate residential accommodation.*

Formal Decision

1. The appeal is allowed and attached to this decision is a certificate of lawful development for repair works to 1, 2, and 3 The Stables to reinstate the residential accommodation, which is found to be lawful.

Preliminary Matters

2. The description of development contained in the LDC application form differs to that contained within the decision notice. There is no evidence that this change was formally agreed. The latter more accurately reflects the scope of the scheme submitted to and determined by the Council and is now the subject of this appeal. Given that the appellant has adopted the description made by the Council on their appeal form, no parties' interests would be prejudiced were I to use this amended description. Therefore, in the interests of clarity I rely upon the latter description in paragraph 1 above and my decision as a whole.

3. During my site visit it was apparent that the building subject to the appeal is currently empty and in a state of dilapidation, with various site safety notices attached to the property, warning of a hazardous area and advising no admittance. Given this, I was unable to access all internal parts of the property, nevertheless I was able to observe the entire property externally.

4. For the purposes of obtaining an LDC the onus of proof lies with the appellant, and the standard of proof is the balance of probabilities[1]. An LDC decision will rest on the specific facts of the case and the application of relevant and established case

[1] *Thrasyvoulou v SSE & Hackney LBC (No 1) [1984] JPL 732*

law. Planning merits do not form part of the consideration of an LDC appeal and thus are not relevant here.

Main Issue

5. The main issue is whether the decision of Horsham District Council to refuse to grant an LDC was well founded.

Reasons

6. The appeal site consists of a residential care home located within the grounds of a former manor house. Adjoining the care home is a cluster of buildings (formally the stables) containing ancillary staff accommodation[2], storage areas, and a small chapel, albeit these functions are currently not in use, other than the ancillary storage. There is also a four bay garage in the southwest corner of the cluster. The buildings date to the late 19th century and comprise red brick, tile hanging, and clay tiles.

7. The ancillary staff accommodation consists of five separate residences located within the former stables. The LDC application relates to three of these residences. These are:

- 'Stable Cottage' which I will refer to as '1 The Stables'. This consists of a residence located at the ground floor level in the north corner of the building adjoining the chapel and is approximately 61m^2 gross internal area (GIA). The property is accessed via a door fronting the northeastern elevation.
- '2 The Stables' is accessed via a doorway on the ground floor at the rear of the building in the northwest elevation. The property is located over two floors and consists of approximately 113m^2 GIA. However, I was unable to gain access to view this property internally.
- 'Grooms Cottage' or '3 The Stables' is approximately 119m^2 GIA over the ground and first floor and accessed via a doorway on the southwest elevation adjoining the garages.

8. It is important to establish the planning unit. From the information before me, the planning unit consists of a residential care home as this is the primary use at the site. Given that the uses within the former stables are necessary to support the primary activities at the care home, these form incidental uses to the planning unit. The ancillary facilities have both a physical and functional link to its primary use. However, as was evident from the site visit, the stables are poor quality and are in considerable need of improvement and repair works, thus currently the ancillary staff accommodation is unoccupied. I shall return to the question of abandonment later.

9. The appellant has indicated that the proposed works required to enable the ancillary staff accommodation to once again become inhabitable, would involve various improvements and alterations to the premises. These include repair works to the roof at 3 The Stables, with replacement roof tiles to be of a similar appearance to the existing roof. A collapsed canopy roof between 2 and 3 The Stables would also require removing from the site. Furthermore, each of Nos. 1, 2 and 3 The Stables would require the installation of replacement windows, and

[2] Horsham District Council Planning Ref: RW/67/63

significant internal works to update and improve electrical wiring, plumbing, plastering and other decorative operations to achieve an acceptable habitable standard.

10. Both parties refer to section 55 of the 1990 Act (as amended) and the definition of development, in respect to the proposed works. Section 55 provides the relevant meaning of 'development', which includes the carrying out of building operations. Subsection (1a) provides a non-exhaustive list of what 'building operations' include. These are: (a) demolition of buildings; (b) rebuilding; (c) structural alterations of or additions to buildings; and (d) other operations normally undertaken by a person carrying on business as a builder. In this context, section 336 of the Act explains that 'building' includes any structure or erection and any part of a building.

11. Section 55(2) further provides that the following operations or uses of land shall not be taken for the purposes of the Act to involve development of the land; (a) the carrying out for the maintenance, improvement or other alteration of any building of works which (i) affect only the interior of the building, or (ii) do not materially affect the external appearance of the building.

12. From the information before me, a significant proportion of the works, such as the electrical wiring, plumbing, plastering and other decorative operations would involve maintenance and improvements carried out within the interior of the building only. Thus, would not constitute development under section 55(2)(a)(i) of the 1990 Act. Nevertheless, the Council considers that the works to the roof at 3 The Stables and the replacement of windows, may be considered development under section 55(2)(a)(ii) as these could affect the external appearance of the building.

13. Case law[3] establishes that for alterations to the exterior of a building to fall within development they must materially affect the external appearance of the building. In reaching a judgment, the decision maker will need to have consideration of the change to the external appearance of the building as a whole and not just a part in isolation; the degree of visibility by an observer outside the building; the nature of the building; and the nature of the alterations/works.

14. From the information before me, both the works to the roof and windows would involve a like for like replacement to improve the existing building following the water damage. Whilst there are views from public vantage points of the whole building, the works to the windows are minor from a visual perspective, and given they are located in and amongst the existing development they could go relatively unnoticed.

15. I acknowledge that the repair works to the roof at 3 The Stables are more extensive and may require existing materials to be stripped back to fully assess the damage. Nevertheless, it is highly likely that replacement tiles can be sourced, such that they would not change the external appearance of the building where its impact would have a negative effect in planning terms. As such, in this particular case, it is not reasonable to consider that the proposed works would constitute development under section 55(2)(a)(ii) of the 1990 Act, thus planning permission is not required.

[3] *Burroughs Day v Bristol CC [1996] 1 PLR 78; 1 EGLR 167*

16. Given the current state of repair the building is incapable of being used as ancillary residential accommodation. However, the mere cessation of a use is not development, but the concept of abandonment could apply if a building or land remains unused for a considerable time. This would require the cessation of a use in such a way and for such a time as to give the impression to a reasonable onlooker, applying an objective rather than a subjective test, that it was not to be resumed.

17. Case law[4] has established four criteria applicable to determining whether a use has been abandoned. These are a) the period of non-use, b) the physical condition of the land or building, c) whether there had been any other use, and d) the owner's intentions as to whether to suspend the use or to cease it permanently. It is a matter of judgement for the decision maker regarding the weighting of these criteria.

18. Both parties agree that the current buildings have not been occupied for residential purposes for a period in excess of six years, which is a lengthy period for the properties to remain uninhabited. Furthermore, following my site observations and from the information before me, it is clear that the building has suffered water ingress over time. Various sections of the buildings have been subject to damage, particularly internally as previously stated. Nevertheless, whilst uninhabitable, visually much of the building remains intact, such that a reasonable onlooker would consider it remained ancillary to the primary use, albeit subject to considerable repair works.

19. In regard to the owner's intentions, from the evidence before me, it appears that the Trustees have continued making Council Tax payments for Nos. 1, 2 and 3 The Stables despite being unoccupied, as they have been subject to a long-term empty premium. Furthermore, I have not been presented with any information that there has been any other intervening use.

20. The Planning Practice Guidance (PPG) states the appellant's own evidence does not need to be corroborated by independent evidence in order to be accepted. If the Council has no evidence of its own, or from others, to contradict or otherwise make the appellant's version of events less than probable, there is no good reason to dismiss the appeal, provided their evidence alone is sufficiently precise and unambiguous[5].

21. In weighing the considerations, it is indisputable the building in its current form is incapable of occupation for residential purposes. Be that as it may, I have been presented with limited information that the residential use has been abandoned, given the majority of the structures remains intact, and the continuation of Council Tax payments by the Trustees. Therefore, in the absence of any information to the contrary, there is compelling evidence to highlight the appellants commitment to providing ancillary habitable accommodation at the site in the future. As such, I do not find that the residential use incidental to the primary use has been abandoned.

22. Having regard to all the above, I find as a matter of fact and degree that the building has not been abandoned and the proposed works to 1, 2, and 3 The Stables would not involve development, on the balance of probability. The

[4] *Trustees of Castell-y-Mynach Estate v Taff-Ely BC [1985] JPL 40*
[5] Lawful Development Certificates Paragraph: 006 Reference ID: 17c-006-20140306

proposed use would, therefore, have been lawful if it had commenced on the date the LDC application was made.

Conclusion

23. For the reasons given above, I conclude on the evidence now available, that the Council's refusal to grant a certificate of lawful development for the repair works to 1, 2, and 3 The Stables to reinstate residential accommodation is not well-founded and that the appeal should succeed. I will exercise accordingly the powers transferred to me in section 195(2) of the 1990 Act (as amended).

Robert Naylor

INSPECTOR

Planning Inspectorate

Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 192
(as amended by Section 10 of the Planning and Compensation Act 1991)

TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND) ORDER 2015: ARTICLE 39

IT IS HEREBY CERTIFIED that on 16 January 2024 the operations described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged in red on the plan attached to this certificate, would have been lawful within the meaning of section 192 of the Town and Country Planning Act 1990 (as amended), for the following reason:

The proposed works to 1, 2, and 3 The Stables would not involve development under section 55 of the Town and Country Planning Act 1990 (as amended).

Signed

Robert Naylor

Inspector

Date: 27 February 2026
Reference: APP/Z3825/X/24/3342359

First Schedule

Repair works to 1, 2, and 3 The Stables to reinstate residential accommodation

Second Schedule

Honeywood House, Horsham Road, Rowhook, Horsham RH12 3QD

IMPORTANT NOTES – SEE OVER

NOTES

This certificate is issued solely for the purpose of Section 192 of the Town and Country Planning Act 1990 (as amended).

It certifies that the operations described in the First Schedule taking place on the land specified in the Second Schedule would have been lawful, on the certified date and, thus, were not liable to enforcement action, under section 172 of the 1990 Act, on that date.

This certificate applies only to the extent of the operations described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any operation which is materially different from that described, or which relates to any other land, may result in a breach of planning control which is liable to enforcement action by the local planning authority.

The effect of the certificate is subject to the provisions in section 192(4) of the 1990 Act, as amended, which state that the lawfulness of a specified use or operation is only conclusively presumed where there has been no material change, before the use is instituted or the operations begun, in any of the matters which were relevant to the decision about lawfulness.

Planning Inspectorate

Plan

This is the plan referred to in this decision dated: 27 February 2026

by Robert Naylor

Honeywood House, Horsham Road, Rowhook, Horsham RH12 3QD

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Scale: Not to Scale

